



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,443	02/19/2002	Ying Ma	46847-00007	9165

7590 10/07/2004

Lekha Gopalakrishnan, Esq.  
JENKENS & GILCHRIST, P.C.  
Suite 3200  
1445 Ross Avenue  
Dallas, TX 75202-2799

EXAMINER

WEBMAN, EDWARD J

ART UNIT	PAPER NUMBER
----------	--------------

1617

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS

Washington, D.C. 20231

10/079443

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
--------------------	-------------	-----------------------	------------------

EXAMINER

ART UNIT	PAPER NUMBER
----------	--------------

9/8/04

DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

**OFFICE ACTION SUMMARY**

Responsive to communication(s) filed on 8/19/04

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**

Claim(s) 1-38 is/are pending in the application.  
Of the above, claim(s) 11 - 38 is/are withdrawn from consideration.  
 Claim(s) \_\_\_\_\_ is/are allowed.  
 Claim(s) 1-10 is/are rejected.  
 Claim(s) \_\_\_\_\_ is/are objected to.  
 Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

**Application Papers**

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
 The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.  
 The specification is objected to by the Examiner.  
 The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
 All  Some\*  None of the CERTIFIED copies of the priority documents have been  
 received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

Notice of Reference Cited, PTO-892  
 Information Disclosure Statement(s), PTO-1449, Paper No(s). 6/8/02  
 Interview Summary, PTO-413  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  
 Notice of Informal Patent Application, PTO-152

**-SEE OFFICE ACTION ON THE FOLLOWING PAGES--**

Applicant's election with traverse of Group I and water as first and second solvents in the reply filed on 8/19/04 is acknowledged. The traversal is on the ground(s) that the inventions are not independent. This is not found persuasive because the patentability of the method steps is not dependent on the composition made.

The requirement is still deemed proper and is therefore made FINAL.

Claims 1, 2, 6-9 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for vitamin E TPGS and Al TRI-SEC-BUTOXIDE, does not reasonably provide enablement for any compound possessing amphipathic properties and any alumina source. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. Applicants demonstrate efficacy with the above cited compounds. No amphipathic compound other than vitamin E TPGS is disclosed. Further, it does not appear that Alumina itself will produce the claimed mesoporous composition.

Claims 1-5, 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 "aging" is vague. There is no time limit specified.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Nowhere do applicants specify amounts or ratios of ingredients.

No claims allowed.

Any inquiry concerning this communication should be directed to Edward J. Webman at telephone number 571-272-0633.

Webman/tgd

September 8, 2004



EDWARD J. WEBMAN  
PRIMARY EXAMINER  
GROUP 1500